








NORTH CAROLINA SUPREME COURT

Justices							
	Mark Davis	Robin Hudson	Cheri Beasley	Anita Earls	Sam Ervin	Michael Morgan	Paul Martin Newby
Confidence Score	Strong Democrat	Strong Democrat	Strong Democrat	Strong Democrat	Strong Democrat	Strong Democrat	Mild Republican
Opinion Partners						✓	✓
Dissenting Minority	✓				✓		✓
Determining Majority		✓	✓	✓		✓	
Lone Dissenter							✓

SUMMARY

- ▶ Number of justices: **7**
- ▶ Number of cases: **179**
- ▶ Percentage of cases with a unanimous ruling: **66.5% (119)**
- ▶ Justice most often writing the majority opinion: **Ervin (28)**
- ▶ Per curiam decisions: **18**
- ▶ Concurring opinions: **7**
- ▶ Justice with most concurring opinions: **Ervin (2)**
- ▶ Dissenting opinions: **51**
- ▶ Justice with most dissenting opinions: **Newby (26)**

COURT CONTENTION

The North Carolina Supreme Court was one of the most contentious courts in the nation in 2020. At least one justice disagreed with the majority's ruling in 119 cases, which was 66.5 percent of the time the court issued a ruling.

Opinion partners

The two justices who allied with one another most often in dissent were Justices Newby and Morgan. Newby and Morgan dissented together eight times, which was 44.4 percent of all cases with two or more justices in the dissent. In our *Ballotpedia Courts: State Partisanship* study, Justice Newby recorded a Mild Republican Confidence Score and Justice Morgan recorded a Strong Democratic Confidence Score.

Dissenting minority

The North Carolina Supreme Court decided nine cases by split decision in 2020. No justice dissented in all nine of those decisions. Justice Davis dissented in seven of those nine decisions, which was more than any other justice on the court.

The group of three justices who allied most often in dissent were Justices Davis, Morgan, and Newby. Davis, Morgan, and Newby dissented in the same case three times, which was 33.3 percent of all cases in which three justices dissented. In our *Ballotpedia Courts: State Partisanship* study Davis recorded a Strong Democratic Confidence Score, Morgan recorded a Strong Democratic Confidence Score, and Newby recorded a Mild Republican Confidence Score.

Determining majority

No justice ruled in the majority in all nine of the cases decided by split decision. Justice Beasley ruled in the majority eight times, which was more than any of her colleagues.

Justices Beasley, Earls, Ervin, and Hudson allied in the majority more than any other group of four justices. In three of the cases decided by split decision, Justices Beasley, Earls, Ervin, and Hudson allied in the majority. In our *Ballotpedia Courts: State Partisanship* study Beasley recorded a Strong Democratic Confidence Score, Earls recorded a Strong Democratic Confidence Score, Ervin recorded a Strong Democratic Confidence Score, and Hudson recorded a Strong Democratic Confidence Score.

Lone dissenter

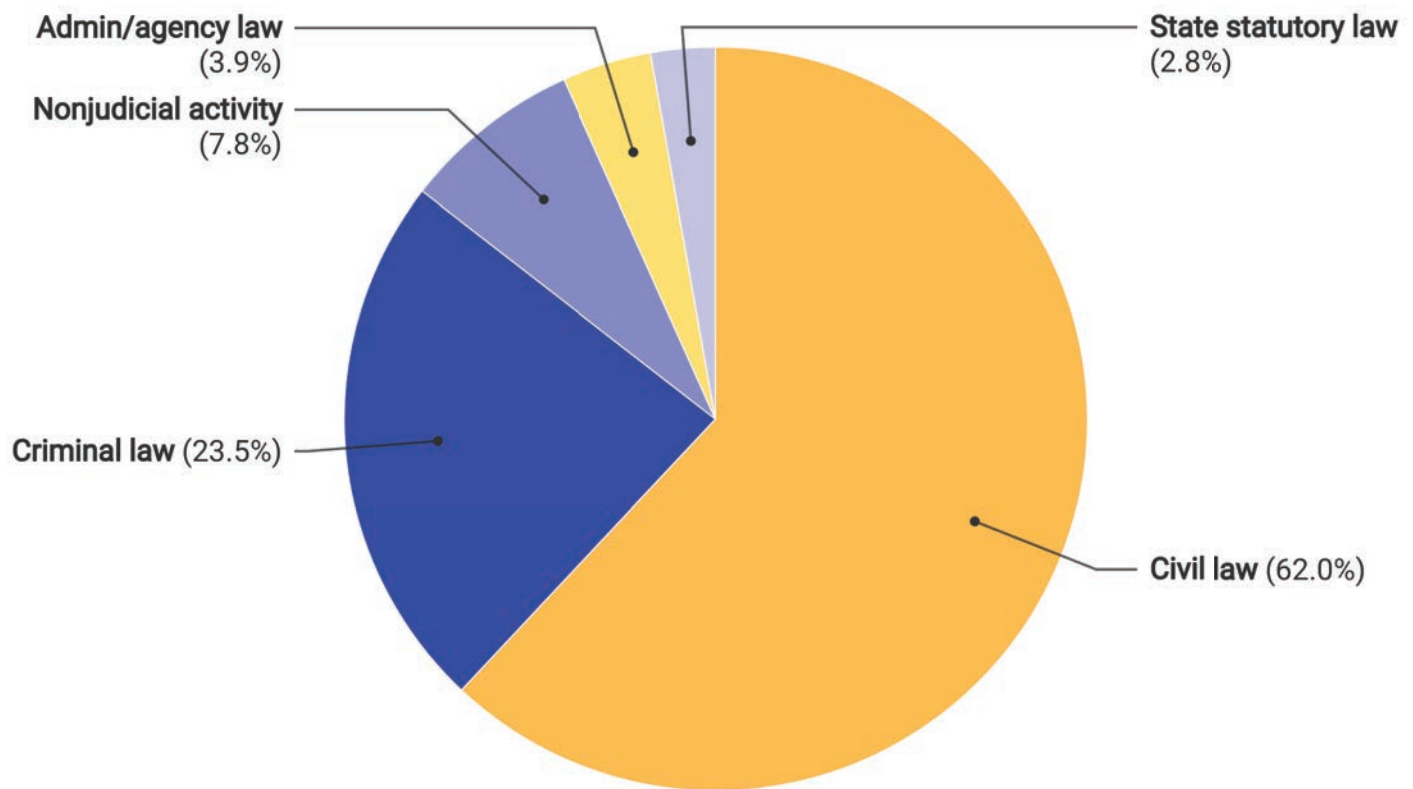
In 2020, Justice Newby dissented alone 22 times, which was more than any other justice. There was a lone dissenter in 34 cases. Justices Earls was a lone dissenter in

ten cases.

COURT JURISDICTION

The primary function of the supreme court is to decide questions of law that have arisen in the lower courts and before state administrative agencies, including court of appeals cases that are reviewed upon petition. The court has jurisdiction to review upon appeal any decision of the courts below, upon any matter of law or legal inference. The Court may issue any remedial writs necessary to give it general supervision and control over the proceedings of the other courts. The Supreme Court also has jurisdiction to review, when authorized by law, direct appeals from a final order or decision of the North Carolina Utilities Commission.

Case types decided by Supreme Court of North Carolina, 2020



BALLOTPEDIA

The most common cases heard by the North Carolina Supreme Court in 2020 were civil cases. Of the 179 cases it heard, 111 were civil cases, which was 62.0 percent of its caseload for the year. A civil case is one that involves a dispute between two parties, one of whom seeks reparations or damages.

The second most common cases that reached the supreme court were criminal cases. A criminal case involves a final criminal appeal before the court of last resort. The North Carolina Supreme Court heard 42 criminal cases in 2020, or 23.5 percent of its total caseload for the year.

The third most common cases that reached the court were nonjudicial activity. A case is considered nonjudicial activity if it does not involve a formal hearing and

discussion before the court. The North Carolina Supreme Court heard 14 criminal cases in 2020, or 7.8 percent of its total caseload for the year.

PROMINENT CASES

In re A.B.C.

Justice	Mark Davis	Robin Hudson	Cheri Beasley	Anita Earls	Sam Ervin	Michael Morgan	Paul Martin Newby
<i>In re A.B.C.</i>	Joining Earls's dissent	Writing the majority opinion	Joining Earls's dissent	Writing a dissenting opinion	Joining majority opinion	Joining majority opinion	Joining majority opinion

- ◆ **Contention:** Justice Hudson wrote the majority opinion. She was joined by Justices Ervin, Newby, and Morgan. Justice Earls wrote a dissenting opinion and was joined by Justices Beasley and Davis.
- ◆ **Summary:** In April 2015 the mother of a minor named Adam was found sleeping inside of a car in a parking lot. Adam, who was four years old, was found crying in the back seat of the car. Adam was placed with a safety resource. The following week the mother was found unresponsive in a car parked in a hospital parking lot. She was admitted to the hospital and treated for drug overdose. The Department of Social Services filed a juvenile petition alleging that Adam was neglected and dependent, and took him into nonsecure custody. After a hearing a trial court declared Adam as a dependent and dismissed the neglect allegations. In a separate disposition the court ordered that the mother submit to a substance abuse assessment and mental health assessment as well as comply with weekly random drug screens. In January 2017 the mother was arrested for violating her probation. In February 2018 a trial court entered disposition orders concluding that there were grounds to terminate the mother's parental rights based on her willful failure to make reasonable progress. The mother argued that the trial court erred. The supreme court upheld the trial court's judgment terminating the mother's parental rights to her minor child.
- ◆ **Majority argument:** Justice Hudson wrote: "The trial court's conclusion that it was in the child's best interests to terminate respondent's parental rights was supported by evidence in the record, was reached according to the directive of N.C.G.S. § 7B-1110(a), and was not otherwise arbitrary. Therefore, because the trial court's decision was not an abuse of its discretion, we affirm that decision." (*In re A.B.C.*, No. 233A19, 21 (N.C. 2020))
- ◆ **Dissenting argument:** Justice Earls wrote: "Contrary to the majority's characterization, this is not a question of whether to accept the trial court's credibility determination regarding whether or not respondent attended counseling programs through Alcoholics Anonymous (AA) or Narcotics Anonymous (NA). The issue here is whether the trial court adequately addressed the Court of

Appeals direction on remand; whether the findings of fact made by the trial court are supported by clear, cogent, and convincing evidence in the record; and whether the trial court's findings adequately support its conclusions of law." (*In re A.B.C.*, No. 233A19,1-2 (N.C. 2020))

DTH Media Corp. v. Folt

Justice	Mark Davis	Robin Hudson	Cheri Beasley	Anita Earls	Sam Ervin	Michael Morgan	Paul Martin Newby
DTH Media Corp. v. Folt	Writing a dissenting opinion	Joining majority opinion	Joining majority opinion	Joining Davis' dissent	Joining Davis' dissent	Writing majority opinion	Joining majority opinion

- ◆ **Contention:** Justice Morgan wrote the majority opinion. He was joined by Justices Beasley, Hudson, and Newby. Justice Davis wrote a dissenting opinion and was joined by Justices Earls and Ervin.
- ◆ **Summary:** The case arose out of a dispute between various news organizations and officials of University of North Carolina at Chapel Hill (UNC-CH)'s administration. The plaintiffs (news organizations) brought legal action against the former chancellor and the Senior Public Records Director of UNC-CH alleging that they violated the Public Records Act when the UNC-CH employees failed to disclose information on the names of any person who has been found responsible for rape since January 1, 2007. The UNC-CH officials claimed that the Family Educational Rights and Privacy Act (FERPA) exempted them from complying with the public records request. A lower court ruled that the UNC-CH officials were required to release the information. The Supreme Court affirmed the judgment of the court of appeals concluding that officials of UNC-CH are required to release, as public records, disciplinary records of its students who have been found to have violated the University's sexual assault policy, holding that the University did not have discretion to withhold the information sought.
- ◆ **Majority argument:** Justice Morgan wrote: "We hold that officials of The University of North Carolina at Chapel Hill are required to release as public records certain disciplinary records of its students who have been found to have violated UNC-CH's sexual assault policy. The University does not have discretion to withhold the information sought here, which is authorized by, and specified in, the federal Family Educational Rights and Privacy Act as subject to release. Accordingly, as an agency of the state, UNC-CH must comply with the North Carolina Public Records Act and allow plaintiffs to have access to the name of the student, the violation committed, and any sanction imposed by the University on that student in response to

plaintiffs' records request." (*DTH Media Corp. v. Folt*, No. 142PA18, 27 (N.C. 2020))

- ◆ **Dissenting argument:** Justice Davis wrote: "The majority's analysis fundamentally misapplies the federal preemption doctrine. As discussed more fully below, the dispositive issue in this case is whether FERPA confers discretion upon universities regarding whether to release the category of records at issue. If FERPA does so, then the doctrine of preemption precludes states from mandating that universities exercise that discretion in a certain way." (*DTH Media Corp. v. Folt*, No. 142PA18, 29 (N.C. 2020))

Draughon v. Evening Star Holiness Church of Dunn

Justice	Mark Davis	Robin Hudson	Cheri Beasley	Anita Earls	Sam Ervin	Michael Morgan	Paul Martin Newby
Draughon v. Evening Star Holiness Church of Dunn	Joining majority opinion	Joining Earls' dissent	Joining majority opinion	Writing a dissenting opinion	Joining majority opinion	Joining Earls' dissent	Writing majority opinion

- ◆ **Contention:** Justice Newby wrote the majority opinion. He was joined by Justices Beasley, Davis, and Ervin. Justice Earls wrote a dissenting opinion and was joined by Justices Hudson and Morgan.
- ◆ **Summary:** Plaintiff visited Defendant's church property for a funeral and helped carry the casket. Plaintiff tripped near the top of the stairs and was injured. The top step was visibly higher than the other steps and made of noticeably different materials. The trial court found that Defendant was entitled to summary judgment. The court of appeals reversed, concluding that genuine issues of material fact existed regarding whether the condition of the top step was open and obvious, whether the top step caused Plaintiff's fall, and whether Plaintiff was contributorily negligent. The Supreme Court reversed, holding (1) the top step was an open and obvious condition such that a reasonably prudent person would have recognized it and taken appropriate care to avoid injury while using it; and (2) Plaintiff did not take the care that an ordinary person would have taken while carrying the casket up the set of stairs and so was contributorily negligent. The Supreme Court reversed the decision of the court of appeals vacating the trial court's grant of summary judgment in favor of Defendant in this negligence action, holding that because the alleged defect was open and obvious and thus should have been evident to Plaintiff and because Plaintiff did not take reasonable care, summary judgment was properly granted.
- ◆ **Majority argument:** Justice Newby wrote: "Because the condition of the top step would be open and obvious to a reasonable person, defendant had no duty to warn plaintiff. Similarly, because plaintiff, after his previous descent of the steps, did not heed the risk obviously presented by the distinct appearance of the top

step, and because he carried the casket while walking sideways without looking at the steps, his own negligence contributed to his fall. The Court of Appeals' decision vacating the trial court's grant of summary judgment is reversed." (*Draughon v. Evening Star Holiness Church of Dunn*, No. 216A19, 13 (N.C. 2020))

- ◆ **Dissenting argument:** Justice Earls wrote: "The plaintiff in this case thought he was merely going to attend a funeral, but when asked to help carry the casket up the stairs into the church, his generosity of spirit went badly awry. Falling on the top step, he was injured. As with most cases alleging negligence, questions concerning what caused the fall, whether he should have been warned or should have seen the alleged hazard himself, and whether a reasonable person would have avoided the fall are all questions for a jury of his peers to decide after hearing all the evidence in court." (*Draughon v. Evening Star Holiness Church of Dunn*, No. 216A19, 1 (N.C. 2020))